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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,389	10/09/2001	Richard R. Herzog	8667-60	6166

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EXAMINER

HARRIS, ERICA B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/28/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,389

Applicant(s)

HERZOG ET AL.

Examiner

Erica B Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15,16,18,19,21 and 27-63 is/are rejected.
- 7) ☒ Claim(s) 17,20 and 22-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 15 and 48 are objected to because of the following informalities:

in claim 15, line 4, "resilient art" should be --resilient arm--;

in claim 48, line 12, "short of its respective enlarged width portions" should be

--short of its respective enlarged width portions--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 48 recites the limitation "the end of one of said horizontal beams" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 15, 16, 18, 19, 21, and 27-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Kautz et al. (6,241,109 B1). In Figures 1, 5, and 8-17, Kautz discloses a rack including a plurality of vertical members 12 defining a plurality of vertical member holes 20 and a plurality of horizontal beams 14 supported on said vertical members; a mounting bracket 16 at an end of one of said horizontal beams; and a latch assembly 34.

The mounting bracket 16 includes an L-shaped member having a substantially flat interior surface 54 and an exterior surface 33 and defines first and second legs 22,24. The first leg 22 has at least two lugs 18 projecting inwardly from its interior surface with said lugs being received in two of said vertical member holes. The first leg further defines first and second holes 26,28 with at least said first hole 26 being aligned with one of said vertical member holes 20. Each of said first and second holes has an enlarged width portion 56 and a narrower width portion 58, wherein said interior surface defines a recess 60,62 adjacent to each of said narrower width portions. The recess 62 adjacent to narrower width portion of said second hole 28 terminates short of its respective enlarged width portion.

The latch assembly 34 is a resilient locking member that includes a clip 46 having first and second legs 36 protruding from an end portion thereof mounted in the recess 62 of said second hole 28, with said vertical member 12 preventing said clip from moving further inwardly; and a locking pin 38 having a shank 40 and an enlarged head 42, wherein the shank extends

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through said first hole 26 and through the vertical member hole 20 aligned with said first hole. Each leg 36 further includes a wing member 52 extending outwardly away from the wing member of the other leg and generally parallel to the clip 46. The enlarged head 42 of the locking pin 38 is a single lobe extending generally radially from a side portion of the locking pin, wherein an upper portion of the head is flattened to substantially create first and second lobes extending from generally opposing sides of the locking pin. The recess 60 is deep enough to permit said locking pin 38 to be substantially flush with said interior surface 54 when said resilient member is retracted.

Kautz discloses the steps of the method in column 4, lines 11-65 and illustrates the same in Figures 14A-17.

Allowable Subject Matter

7. Claims 17, 20, and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: These claims have been found to be allowable over the prior art of record because the prior art of record neither teaches nor suggests a storage rack system wherein a beam flange has latch that comprises a resilient arm with a locking pin attached thereto and protruding through an opening in said beam flange, said locking pin having a locking flange extending from the free end thereof; and including a tooth protruding from an end portion of said flange such that said locking flange and tooth are angled toward and extend toward the resilient arm of said latch

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(claims 17 and 22); wherein the resilient arm has a plurality of protrusions extending from the same side of the resilient arm as the locking pin (claim 20). While storage rack systems with beam flanges and locking pins with locking flanges per se are revealed by Kautz et al., King and Olsson et al., there is no teaching or suggestion for a person of ordinary skill in the art to combine the prior art teachings in the manner required by the claims to achieve the applicant's invention absent the applicant's own disclosure.

Response to Arguments

8. Applicant's arguments with respect to claims 15-63 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicants' request for an interference, the requirements for establishing a claim have not been met. The requirement for applicants to show support for the claims of the patent within applicants' application have not been satisfactorily met. Applicants should use reference numbers to identify the similar elements if using a figure as support and should give specific line numbers on pages of the specification if that is where the support is found, not merely refer to entire figures or pages. Further, applicants have not established that they invented the subject matter of the instant application prior to the earliest filing date of the Kautz et al. patent.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica B Harris whose telephone number is 703-306-9071. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

Erica B. Harris

Erica B. Harris
August 26, 2002

Daniel P. Stodola

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
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